

**PUBLIC COPY**

identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy

U.S. Department of Homeland Security  
20 Mass, Rm. A3042, 425 I Street, N.W.  
Washington, DC 20529



U.S. Citizenship  
and Immigration  
Services

**AUG 04 2004**

FILE:

Office: CALIFORNIA SERVICE CENTER

Date:

IN RE:

Applicant:

APPLICATION:

Application for Status as a Temporary Resident pursuant to Section 210 of the  
Immigration and Nationality Act, as amended, 8 U.S.C. § 1160

ON BEHALF OF APPLICANT:

**INSTRUCTIONS:**

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. If your appeal was sustained, or if your case was remanded for further action, you will be contacted. If your appeal was dismissed, you no longer have a case pending before this office, and you are not entitled to file a motion to reopen or reconsider your case.

Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The application for temporary resident status as a special agricultural worker was denied by the Director, Western Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The director denied the application because the applicant failed to establish the performance of at least 90 man-days of qualifying agricultural employment during the eligibility period. This decision was based on conflicting information provided by the applicant.

On appeal, the applicant states that he did not read or write English very well when a previous application of his, which contained information contradicting his agricultural claim, was submitted.

In order to be eligible for temporary resident status as a special agricultural worker, an alien must have engaged in qualifying agricultural employment for at least 90 man-days during the twelve-month period ending May 1, 1986, and must be otherwise admissible under section 210(c) of the Act and not ineligible under 8 C.F.R. § 210.3(d). 8 C.F.R. § 210.3(a). An applicant has the burden of proving the above by a preponderance of the evidence. 8 C.F.R. § 210.3(b).

On the Form I-700 application, the applicant claimed to have performed 98 man-days of qualifying agricultural employment for [REDACTED] from January 3 to April 25, 1986. Although the application directs an applicant to indicate his agricultural employment that took place from May 1, 1983 through May 1, 1986, the applicant showed only that one brief period of farm work.

In support of the claim, the applicant submitted a corresponding affidavit signed by [REDACTED] and a 1986 Form W-2 Wage and Tax Statement showing \$1795 was paid to the applicant by [REDACTED]. He further provided pay slips, purportedly relating to that same employment, although these showed only the name of the employee (the applicant) and not the name of any employer. The applicant also furnished a report showing a weekly breakdown of his wages for the first two quarters of calendar year 1986.

Another 1986 Form W-2 was provided with the application, showing the applicant earned \$1500 working in a motel.

In attempting to verify the applicant's claimed employment, the Immigration and Naturalization Service, or the Service (now Citizenship and Immigration Services, or CIS) located information in its records which contradicted the applicant's claim. Specifically, as part of an asylum request, the applicant filed Form G-325A on April 18, 1986. The applicant indicated on that form that he had been unemployed since October 1984.

On August 20, 1992 the applicant was advised in writing of the contradiction, and of the Service's intent to deny the application. The applicant was granted thirty days to respond. In response, the applicant

stated that he did not understand English very well, and that he signed the form unknowingly after the person who prepared the form told him to.

The director concluded the applicant had not overcome the derogatory evidence, and denied the application.

On appeal, the applicant maintains the use of the Form G-325A to discredit his affidavit was improper. He asserts the force of the corroborating evidence he has submitted is compelling. The applicant again reiterates his employment claim without providing any additional documentation.

Generally, the inference to be drawn from the documentation provided shall depend on the extent of the documentation, its credibility, and amenability to verification. 8 C.F.R. § 210.3(b)(1). Evidence submitted by an applicant will have its sufficiency judged according to its probative value and credibility. 8 C.F.R. § 210.3(b)(2). Personal testimony by an applicant which is not corroborated, in whole or in part, by other credible evidence (including testimony by persons other than the applicant) will not serve to meet an applicant's burden of proof. 8 C.F.R. § 210.3(b)(3).

There is no mandatory type of documentation required with respect to the applicant's burden of proof; however, the documentation must be credible. All documents submitted must have an appearance of reliability, i.e., if the documents appear to have been forged, or otherwise deceitfully created or obtained, the documents are not credible. *United Farm Workers (AFL-CIO) v. INS*, Civil No. S-87-1064-JFM (E.D. Cal.).

The applicant states that another individual, whom he does not name, provided inaccurate information on Form G-325A. There is no corroborating statement from such individual in the record. The failure of the applicant to name the individual raises questions. Furthermore, it is not clear how another person would have known, without asking the applicant, what information regarding employment should be provided on the G-325A.

The applicant states that he did not understand English well enough to know what he was signing when he signed the G-325A. However, in the previous year he had married a native-born U.S. citizen, implying he was able to communicate very well. Furthermore, when the applicant applied for temporary residence in this proceeding he explained that his marriage had been entered into in order to acquire permanent residence. *This casts great doubt on the credibility of any claim the applicant makes.*

If the applicant had truly worked as claimed, it is not known why the employer would be unwilling to again voice support for the applicant's claim. No statement from the claimed employer has been received since the application was filed in 1987.

In light of all of these adverse factors, the documentary evidence submitted by the applicant cannot be considered as having any probative value or evidentiary weight. The applicant has, therefore, failed to establish the performance of at least 90 man-days of qualifying agricultural employment during the

  
Page 4

twelve-month statutory period ending May 1, 1986. Consequently, the applicant is ineligible for adjustment to temporary resident status as a special agricultural worker.

**ORDER:** The appeal is dismissed. This decision constitutes a final notice of ineligibility.